

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

<hr/> <p>JAMES BERTONIS, <i>individually and on behalf of all others similarly situated</i></p> <p style="text-align: right;">Plaintiff,</p> <p>-against-</p> <p>MORGAN STANLEY, MORGAN STANLEY SMITH BARNEY LLC, and E*TRADE SECURITIES LLC</p> <p style="text-align: right;">Defendants.</p> <hr/> <p>MARK E. MCKINNEY and NEAL GAGNER, <i>individually and on behalf of all others similarly situated</i></p> <p style="text-align: right;">Plaintiffs,</p> <p>-against-</p> <p>MORGAN STANLEY, MORGAN STANLEY SMITH BARNEY LLC, and E*TRADE SECURITIES LLC</p> <p style="text-align: right;">Defendants.</p> <hr/>	<p>X</p> <p>:</p> <p>:</p> <p>:</p> <p>25-CV-1598 (VEC)</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>Defendants.</p> <p>X</p> <p>:</p> <p>:</p> <p>:</p> <p>24-CV-8860 (VEC)</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>Defendants.</p> <p>X</p>
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VALERIE CAPRONI, United States District Judge:

WHEREAS on March 13, 2025, the parties in *Bertonis v. Morgan Stanley et al.*, 25-CV-1598 (“*Bertonis*”) and the parties and Proposed Intervenor in *McKinney v. Morgan Stanley et al.*, 24-CV-8860 (“*McKinney*”) filed a letter motion requesting that the two cases be consolidated, that consolidation occur before the Court resolves the Proposed Intervenor’s motion to intervene and transfer in *McKinney*, and that Defendants’ deadline to answer or otherwise respond to the complaint in *Bertonis* be adjourned *sine die* pending the Court’s resolution of the Proposed Intervenor’s pending motion to intervene and transfer in *McKinney*.

IT IS HEREBY ORDERED that the request to consolidate *McKinney* and *Bertonis* is GRANTED. *McKinney* will be the controlling case for the two consolidated cases.

IT IS FURTHER ORDERED that no further filings shall be made in *Bertonis*. The Clerk of the Court is respectfully directed to terminate the open motions at Dkt. 22 and Dkt. 23 of that case, to close the case, and to consolidate it with *McKinney*.

IT IS FURTHER ORDERED that the request to adjourn *sine die* Defendants' deadline to respond to the *Bertonis* complaint is DENIED AS MOOT because *Bertonis* is now closed.

IT IS FURTHER ORDERED that the deadline for the *McKinney* Plaintiffs (Mr. McKinney, Mr. Gagner, and Mr. Bertonis) to file a Second Amended Consolidated Complaint is **Friday, April 4, 2025**. The deadline for Defendants to respond to the Second Amended Consolidated Complaint is ADJOURNED *sine die* pending the Court's resolution of the Proposed Intervenor's motion to intervene and transfer. In light of the parties' assertion that the Court should resolve the Proposed Intervenor's motion to intervene and transfer prior to addressing the allegations raised in *Bertonis*, the Court expects to decide the motion to intervene and transfer in its current form, notwithstanding the fact that the complaint it addresses will no longer be operative upon the filing of the Second Amended Consolidated Complaint. If, however, any of the parties or the Proposed Intervenor believe that the Second Amended Consolidated Complaint renders moot or alters any of the arguments made for or against any portion of the Proposed Intervenor's motion, they must file a letter explaining their position not later than **Friday, April 18, 2025**.

**SO ORDERED.**

Date: **March 14, 2025**  
New York, New York




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VALERIE CAPRONI  
United States District Judge